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Attorney for the Commission Staff

BEFORE THE IDAHO PUBLIC UTILITIES COMMISSION

**IN THE MATTER OF CUSTER)
TELEPHONE BROADBAND SERVICES) CASE NO. CTB-T-21-01
LLC’S APPLICATION FOR EXPANSION)
OF ITS ELIGIBLE TELECOMMUNICA-)
TIONS CARRIER DESIGNATED SERVICE) COMMENTS OF THE
AREA) COMMISSION STAFF
_____)**

STAFF OF the Idaho Public Utilities Commission, by and through its Attorney of record, Matt Hunter, Deputy Attorney General, submits the following comments.

BACKGROUND

On January 29, 2021, Custer Telephone Broadband Services LLC (“CTBS” or the “Company”) applied to expand its designated service area as an Eligible Telecommunications Carrier (“ETC”) in Idaho. The Company needs the expanded ETC designation so that it can receive funding that was provisionally awarded under the Federal Communications Commission (“FCC”) Rural Digital Opportunity Fund (“RDOF”) Auction.

CTBS is a wholly owned subsidiary of Custer Telephone Cooperative, Inc., which was a winning bidder in the RDOF Auction 904 to provide broadband service in specific Idaho census blocks. Custer Telephone Cooperative, Inc. assigned its winning bids to CTBS on December 22, 2020. CTBS asserts it is required under the RDOF Auction’s rules to seek and receive designation as an ETC in all census blocks in which it was awarded RDOF support.

In 2014, CTBS sought designation as an ETC for the limited purpose of participating in Lifeline and receiving universal service fund, low-income support in the Salmon, Idaho exchange area. *See* Case No. CTB-T-14-01, Order No. 32989. In Order No. 33002, the Commission designated CTBS a Lifeline-only ETC.

CTBS seeks Commission approval “to expand its low-income/Lifeline-only ETC designation for purposes of receiving high cost RDOF support in those areas located within its [existing service area] and to expand its [existing service area] to include those areas...for which it has been awarded RDOF support via Auction 904.” Application at 2.

CTBS asserts it meets the federal and state requirements for designation as an ETC and that designating CTBS as an ETC is in the public interest. CTBS asks that the Commission issue a final order on its Application before June 7, 2021.

THE APPLICATION

CTBS is an Idaho limited liability company with its principal place of business at 1101 E. Main Avenue, Challis, Idaho 83226. CTBS is authorized to do business in Idaho, the Commission issued the Company a Certificate of Public Convenience and Necessity to provide local exchange and interexchange services in Idaho in Case No. CTB-T-11-01, Order No. 32383. It was subsequently granted ETC status in Case No. CTB-T-14-01. The Company provides local exchange services in its existing service area using its own facilities.

The Company states it qualifies for ETC designation under the federal Telecommunications Act of 1996 (47 U.S.C. § 214(e)). Specifically, the Company asserts it originally provided all of the information required by the Commission in its ETC designation case, and that “CTBS has complied with the conditions and service requirements of its ETC designation applicable to the support it receives and will continue to do so in the expanded RDOF Service Area.” Application at 4.

STAFF ANALYSIS

Staff has reviewed CTBS’s Application and has conducted an analysis of the Company’s fulfillment of requirements under the federal Telecommunications Act of 1996, the FCC’s regulations, the RDOF requirements, and Commission Order No. 29841. In addition, Staff has

analyzed the public interest considerations of awarding the Company ETC designation. Specific state and federal requirements for ETC designation are discussed in more detail below.

Public Interest Analysis

Staff typically applies a two-prong test when analyzing whether a company's ETC application is in the public interest. First, Staff verifies that the company will contribute to the appropriate Idaho funds. Second, Staff analyzes whether the company's application raises "cream skimming" concerns.

The Company participates in the appropriate Idaho programs, complies with the Commission's annual reporting requirements, and otherwise complies with Order No. 29841. The Company indicates that it will continue to do so in the expanded RDOF service area. The Company requests ETC designation for entire census blocks in areas that are unserved, high-cost areas of Idaho; therefore, no cream skimming analysis is required. *See Id.* at 4-5. Thus, Staff believes CTBS's Application satisfies the public interest considerations.

Network Improvement Plan

The Commission requires all ETCs receiving high-cost support to provide a two-year network improvement and progress report. See Order No. 29841 at 18. However, the FCC waived the requirement for a winning bidder to file a five-year plan as part of the FCC ETC designation process. *WCB Reminds Connect Am. Fund Phase II Auction Applicants of the Process for Obtaining A Fed. Designation as an Eligible Telecommunications Carrier*, 33 F.C.C. Rcd. 6696 (2018). The FCC removed this requirement because it "adopted more specific measures to track deployment, including annual reporting of service to geocoded locations and certification of compliance with benchmark milestones." *Id.*

The Company did not provide a two-year network improvement and progress report as part of its Application. Staff believes a waiver to the Commission's two-year plan requirement is appropriate because of the FCC's heightened oversight of RDOF Action winners.

STAFF RECOMMENDATION

Based on its review of the Company's Application, Staff believes the Application demonstrates the Company's commitment to fulfill the obligations of an ETC in Idaho. Thus, Staff believes CTBS's Application for expansion of its ETC designation is in the public interest and should be approved.

Respectfully submitted this 1st day of April 2021.



Matt Hunter
Deputy Attorney General

Technical Staff: Daniel Klein

CERTIFICATE OF SERVICE

I HEREBY CERTIFY THAT I HAVE THIS 1ST DAY OF APRIL 2021, SERVED THE FOREGOING **COMMENTS OF THE COMMISSION STAFF**, IN CASE NO. CTB-T-21-01, BY E-MAILING A COPY THEREOF TO THE FOLLOWING:

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